

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RASHUN RAFEAL SUNCAR,	:	CIVIL NO. 1:08-CV-2201
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	(Magistrate Judge Smyser)
	:	
OFFICER SHERMEYER and	:	
OFFICER RASIER,	:	
	:	
Defendants	:	

REPORT AND RECOMMENDATION

The plaintiff, proceeding *pro se*, commenced this action by filing a complaint on December 8, 2008. On December 8, 2008, the plaintiff also filed an application to proceed *in forma pauperis* and a request for the appointment of counsel.

On December 9, 2008, Judge Conner issued an Order instructing the plaintiff to forthwith file an affidavit in support of the plaintiff's request to proceed *in forma pauperis*. The Order of December 9, 2009 provided that no process shall issue in this case until the plaintiff either files a properly executed affidavit or pays the filing fee.

By an Order dated January 9, 2009, this case was referred to the undersigned for purposes of pre-trial management.

The plaintiff failed to file an affidavit in support of his request to proceed *in forma pauperis*. By an Order dated January 15, 2009, the plaintiff was ordered to pay the \$350.00 filing fee within ten days. The Order of January 15, 2009 warned the plaintiff that if he fails to pay the filing fee within this time, it will be recommended that this case be dismissed. By an Order dated February 10, 2009, the plaintiff's application to proceed *in forma pauperis* was denied.

Some documents, including a copy of the Order of January 15, 2009, sent to the plaintiff by the Clerk of Court have been returned to the Clerk of Court as undeliverable. The Postal Service returned the copy of the Order of January 15,

2009 that was sent to the plaintiff at the following address:

Rashun Rafeal Suncar
54 N. Hartley Street
Apartment 1 - Rear
York, PA 17401

See Doc. 10. The Postal Service indicated on the returned envelope that there is "no such number" and "unable to forward." *Id.* The Postal Service did not return earlier documents mailed to the plaintiff at the following address:

Rashun Rafeal Suncar
54 N. Hartley
Apt. Rear
York, PA 17401

See CM/ECF receipt for Doc. 6.

It seems unlikely that such minor differences in the way an envelope is addressed would result in one envelope being delivered and the other being not deliverable. However, in an abundance of caution, by the Order of February 10, 2009, we again ordered the plaintiff to pay the filing fee and we directed the Clerk of Court to send a copy of the Order to the plaintiff at the address previously used. The Order of February 10, 2009, provided that the plaintiff shall pay the full \$350.00 filing fee within ten days. The Order also warned

the plaintiff that if he fails to pay the filing fee within this time we will recommend that this case be dismissed.

Copies of the Order of February 10, 2009 sent to the plaintiff were returned as undeliverable. The plaintiff has failed to keep the court informed of a current address to which mail can be delivered.

The plaintiff has failed to pay the filing fee. Accordingly, it is recommended that the case be dismissed.

/s/ J. Andrew Smyser
J. Andrew Smyser
Magistrate Judge

Dated: March 13, 2009.